

RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

Venue: The Holiday Inn, Bloomsbury, London

Date: 21st November 2011

JUDGMENT

Player: Ed Mills

Club: Shelford RFC

Match: Lydney RFC v Shelford RFC

Venue: Lydney RFC

Match Date: 15th October 2011

Panel: Philip Evans (Chairman), Dr Julian Morris & Peter Budge

Attending: Lydney – John Nelmes (Chairman)

Shelford – Ed Mills (Player)

Colin Astin (President)

Dick Mathews (Coach)

Secretariat: Rebecca Morgan (Discipline Administrator, RFU Discipline Department)

PRELIMINARY MATTERS

1. Mr Mills did not object to the constitution of the panel. Mr Mills was charged with making contact with the eyes or eye area, contrary to law 10(4)(m). The particulars being that on the 15th October 2011 he made contact with the eye or eye area of an opponent, during the 36th minute of the second half of the match, Lydney RFC v Shelford RFC. The charge was put to Mr Mills, he denied it.

THE EVIDENCE

2. Lydney RFC wrote to the discipline department citing Mr Mills for an offence described as having taken place in approximately the 36th minute of the second half. Video footage was supplied and the panel had available to it footage in two forms. One disc contained the entire match and another contained an incident which took place in or around the 36th minute of the second half and had 3 separate clips showing the footage slowed and blown up. The panel watched the video footage with the parties present following which Lydney called the evidence they wished to present.
3. Lydney called James Bashford (the aggrieved player). Mr Bashford told the panel he had suffered three separate incidents which he said were directed to the area of his face. He said he was able to identify the Shelford number 4 (Mr Mills) as being responsible for each of those incidents. He described contact during those incidents to his cheek area and his eyebrow near the top of his nose. He attributed the injuries, seen in the photographs, to the first and third incidents and not the incident charged.
4. Mr Bashford watched the video footage in the hearing and described his account of what had taken place. He was unable from the footage to take the panel to the first incident which he had described. In regard to the third incident, the video footage provided little assistance by way of detail as to what exactly had taken place.
5. During the hearing the panel adjourned to consider the extent to which it should take into account the various incidents outlined by Mr Bashford, given the fact that the citing and thus, quite properly, the subsequent charge only referred to the incident in the 36th minute of the second half. The panel considered whether the charge should be amended to reflect all three of the allegations made by Mr Bashford.
6. Lydney confirmed to the panel that they had been asked (in light of Mr Bashford's statement) by the RFU disciplinary officer whether they were citing Mr Mills for one incident or more. Lydney had replied that it was just one. As a consequence, Mr Mills had attended the hearing quite properly believing that he faced just that one allegation. Further, only one of the incidents had been identified and blown up/slowed down on the footage. In all the circumstances, including those mentioned above, the panel concluded it would not be fair to and ought not to amend the charge. The panel therefore decided it right to restrict itself to a consideration of the evidence regarding what had taken place during the incident in the 36th minute of the second half. The parties were advised of this decision and the panel went on to reach its conclusion using only that evidence.
7. Mr Bashford told the panel that around the 36th minute of the second half he had been counter rucking. He described a hand coming into his face and making contact with his eyes. He said it felt to him more like a poke on the eyes, he had felt contact with the eye lids but no pain. He had, as a natural reaction, shut his eye lids in response. Later in response to questions he said he had the four fingers and a thumb all round his face. He confirmed that the fingers had gone to the eye area, he said he had felt them. He said his reaction to this

incident was to get on with the game. He did not, at that point, say anything to anyone about that incident. He confirmed that no injury had been caused in this incident.

8. Lydney called Mr Don Parsons. Mr Parsons evidence was limited, he told the panel he had seen James Bashford counter rucking and the Shelford number 4 (Mr Mills) ending up on top of Mr Bashford. He said he had seen the left hand of the number 4 go towards the face of Mr Bashford. He then saw play carry on. After the game he had been involved in a discussion with a number of officials from Lydney and the referee assessor Mr MacDonald as to whether or not to begin the citing process.
9. The panel were informed that none of the officials had seen the incident and a statement was available from Steve Gammage the assistant referee confirming he had not seen anything of the incident.
10. The player, Mr Mills gave his account of what had taken place. He used the video footage to assist with this account.
11. He said that Lydney had kicked the ball through and the Shelford full-back had cleared it up. A ruck had formed and the Lydney number 18 (Mr Bashford) had counter rucked. He said he had driven him back and the two of them had ended up on the floor. He said when he had tried to get up Mr Bashford had been holding his shirt and his reaction had been to push him in the face, when he didn't release he did it again. Then he did release the shirt, he then got up and played on. He accepted he made contact with the side of the face, but in his view contact seemed to be on the ear area. He was questioned by Mr Nelmes who suggested there had been no need to put his hand anywhere near the face area. Mr Mills contested it had been necessary in order to push himself up.
12. Mr Mills had also provided his account in a statement which he had signed and dated the 2/11/2011. That statement said *"...I landed on top of him, he continued to hold me down by my shirt as I was trying to get to the next break down, I pushed his face with my left hand once to release me when he didn't I had to push him a second time which he then released me, the palm of the hand made contact with the front of his face and at no time did my fingers make contact with his eye."*[sic]
13. Mr Mills also relied on various statements. The panel read all of these statements and took them into account in its decision. Mr AJ Roberts the Shelford President provided a statement which gave no direct evidence of the incident. It did however make a number of submissions about other evidence, its weight and its credibility.
14. Glen Remnant, the Shelford coach, said in his statement that he had been 7 metres away from the incident and had seen nothing untoward in that phase of play and then provided his opinion of what the video footage showed. Robin Boatman, the Shelford 1st XV manager and Dick Mathews provided statements which also stated they had been close to the incident and saw nothing untoward.

DECISION

15. Given the evidence of Mr Bashford the panel were not satisfied that any of the injuries seen in photographs or complained of by Mr Bashford were caused during the incident in the 36th minute of the second half.

16. The video footage was clear and showed how the contact in the ruck started between the Lydney 18 and the Shelford 4. Mr Mills ended up on top of Mr Bashford and his shirt was clearly being pulled. Mr Bashford can be seen lying with the back of his head toward the camera. The panel was satisfied that Mr Mills is then seen deliberately and unnecessarily striking his hand down onto the side of Mr Bashford's head. His hand remained planted on the side of the head for a few moments. The footage shows the inside of Mr Mills wrist/forearm toward the camera and the panel was satisfied from the footage that the heel of Mr Mills hand was around the ear area of Mr Bashford or forward of it closer to the eyes. The evidence of Mr Mills himself provided strong support for those findings. The panel was satisfied that Mr Mill's fingers must have been wrapped around the face of Mr Bashford and into his eye area or into his eyes.

17. The panel accepted Mr Bashford's evidence that he felt contact with his eyes or eye area and taking that evidence together with the video footage we were satisfied to the requisite standard that Mr Mills had deliberately struck Mr Bashford and had consequently, all be it recklessly, made contact with the eye or eye area.

18. The player was therefore found guilty of the charge.

SANCTION

19. Mr Mills was given an opportunity to provide the panel with any mitigation he wished to rely on. He had no previous disciplinary findings recorded against him and had an impeccable record. He is 27 years of age and has played rugby since he was 8 years old. He is highly regarded at the club helping with the juniors and generally around the club.

20. The panel found that the following factors from the list set out at paragraph 19.11.9 of the regulations were relevant in its assessment of the seriousness of the players conduct. The offending was (as charged) a reckless rather than an intentional act. However, the player should have known that what he did presented a risk that he would commit an illegal act.

The panel accepted there was some, all be it, limited provocation as a result of the shirt pulling which Mr Mills had described. There was no injury caused by the incident and Mr Bashford carried on playing in the game. There was no effect on the game by the incident. There was no premeditation.

21. Having conducted this exercise the panel concluded this matter fell at the lower end of the scale of seriousness and that there were no aggravating features. The entry point was therefore 12 weeks suspension.
22. The player was able to derive substantial mitigation from his impeccable playing record and the panel felt that in all of the very particular circumstances of this case a good discount from that entry point was appropriate. The player had not pleaded guilty to the charge and thus a 50% reduction was not appropriate. The panel did however feel able to reduce the period of suspension by 4 weeks.
23. Shelford had not taken any action against their player. Mr Mills is therefore suspended from playing for a period of 8 weeks from the date of the hearing and will be free to play again on the 17th January 2012.
24. Costs are payable in the sum of £200.

APPEAL

25. The player has the right to appeal this decision by providing written notice to the RFU Disciplinary Manager within 14 days of this notice.

Philip Evans - Chairman

25th November 2011